

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
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JUN 20 2008

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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

KAREN N. NICOLAOU,  
in her capacity as TRUSTEE for the  
SOLA DISTRIBUTION TRUST

CIVIL ACTION NO. 07-2145

-VS-

JUDGE DRELL

GORDIN D. RICE, et al.

MAGISTRATE JUDGE KIRK

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**ORDER**

Before the Court are two motions by the defendants in this bankruptcy adversary proceeding: a motion to withdraw the reference and transfer the case to the Lafayette-Opelousas Division of the Western District of Louisiana (Doc. 1), and a motion to amend that motion to remove the request to transfer the case (Doc. 26). We grant the motion to amend, leaving only a motion to withdraw the reference, which we now address.

Based on the defendants' jury demand and the parties' filings in connection with this motion, it appears that trial of this matter will ultimately require a jury. The defendants do not consent to trial by jury in the Bankruptcy Court, and the Bankruptcy Court cannot try cases before a jury absent the consent of the parties. 28 U.S.C. § 157(e); In re Clay, 35 F.3d 190, 191, 197-98 (5th Cir. 1994). Thus, the defendants are entitled to withdrawal of the reference as to the ultimate trial in this case. Until that jury trial, though, there is no foreseeable reason that the Bankruptcy Court cannot continue to manage most pretrial matters, fulfilling essentially the same role as a Magistrate Judge

would in any other civil case. This Court, however, desires to hold the pretrial conference and to hear any motion in limine and/or Daubert motion that may arise.

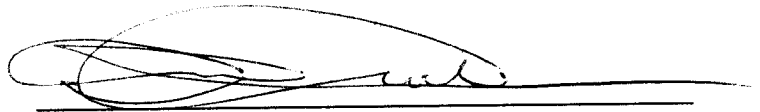
Accordingly,

IT IS ORDERED that the defendants' motion to amend (Doc. 26) is GRANTED.

IT IS FURTHER ORDERED that the defendants' motion to withdraw the reference (Doc. 1), as amended, is GRANTED, but only to the extent necessary for this Court to try the case before a jury. In addition to the jury trial itself, this Court will hold the pretrial conference and hear any motion in limine and/or Daubert motion that may arise. With those exceptions, all other matters relating to ordinary discovery and other pretrial proceedings shall remain with the Bankruptcy Court.

IT IS FURTHER ORDERED that counsel of record for all parties shall initiate a telephone status conference with the Court on July 17, 2008, at 9:30 A.M.

SIGNED on this 19<sup>th</sup> day of June, 2008 at Alexandria, Louisiana.

A handwritten signature in black ink, appearing to read 'Dee D. Drell', is written over a horizontal line.

DEE D. DRELL  
UNITED STATES DISTRICT JUDGE